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DEPARTMENT OF THE PRIME MINISTER

No. 1264. 21 June 1978.

It is hereby notified that the State President has assented to the following Act which is hereby published for general information:—

No. 80 of 1978: Financial Institutions Amendment Act, 1978.

DEPARTEMENT VAN DIE EERSTE MINISTER

No. 1264. 21 Junie 1978.

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 80 van 1978: Wysigingswet op Finansiële Instellings, 1978.

GENERAL EXPLANATORY NOTE:

[ ] Words in bold type in square brackets indicate omissions from existing enactments.

_____ Words underlined with solid line indicate insertions in existing enactments.

ACT

To amend the Insurance Act, 1943, in order to further regulate the holding of assets and the insurance of the lives of persons performing military service; to amend the Stock Exchanges Control Act, 1947, in order to further regulate the buying and selling of listed securities by stock-brokers and the lending of money by stock-brokers and carriers against shares; to amend the Pension Funds Act, 1956, in order to redefine "dependant"; and to further regulate the granting of loans by pension funds to members and the protection of pension benefits; to amend the Inspection of Financial Institutions Act, 1962, in order to further regulate inspections; to amend the Participation Bonds Act, 1964, in order to regulate the acceptance of collateral security in respect of participation bonds; to amend the Banks Act, 1965, with regard to definitions; in order to require banking institutions to furnish additional information to the Registrar of Banks; to increase the limit on savings deposits; to prohibit banking institutions from making certain representations to the public; and to further regulate the restrictions on investments by discount houses; and to amend the Building Societies Act, 1965, with regard to definitions; in order to relax the restrictions on the use of certain names by building societies; to further regulate the acceptance of deposits by building societies and to prohibit building societies from making certain representations; to authorize building societies, in certain circumstances, to issue debentures and to invest in shares and debentures; to further regulate the maintenance of liquid assets by building societies; to relax, in certain cases, the requirements in respect of additional security; and to provide for the transfer of part of a building society's business; and to provide for incidental matters.

(Afrikaans text signed by the State President.)
(Assented to 6 June 1978.)

BE IT ENACTED by the State President, the Senate and the House of Assembly of the Republic of South Africa, as follows:—

1. Section 1 of the Insurance Act, 1943, is hereby amended by the insertion in subsection (1) after the definition of "marine business" of the following definition: Amendment of section 1 of Act 27 of 1943, as amended by section 2 of Act 73 of 1951,

"'military', in relation to military service or military action,

includes any service or action, as the case may be, in or by the army, air force or navy;". section 39 of Act 24 of 1956, section 50 of Act 25 of 1956, section 1 of Act 79 of 1959, section 1 of Act 10 of 1965, section 1 of Act 41 of 1966, section 1 of Act 65 of 1968, section 1 of Act 39 of 1969, section 1 of Act 91 of 1972, section 1 of Act 101 of 1976 and section 1 of Act 94 of 1977.

2. Section 17 of the Insurance Act, 1943, is hereby amended— Amendment of section 17 of Act 27 of 1943, as substituted by section 12 of Act 10 of 1965 and amended by section 4 of Act 41 of 1966, section 2 of Act 91 of 1972, section 6 of Act 101 of 1976 and section 3 of Act 94 of 1977.

(a) by the substitution for subparagraph *(a)* (ii) of subsection (2) of the following subparagraph:

"(ii) fifty per cent of the amount of the said net liabilities in respect of long-term insurance business carried on with pension funds and retirement annuity funds, but subject to any exemption under section 18*ter*."; and

(b) by the substitution for subparagraph *(b)* (ii) of the said subsection (2) of the following subparagraph:

"(ii) twenty per cent of the amount of the said net liabilities in respect of long-term insurance business carried on with pension funds and retirement annuity funds, but subject to any exemption under section 18*ter*.".

3. Section 18 of the Insurance Act, 1943, is hereby amended— Amendment of section 18 of Act 27 of 1943, as substituted by section 13 of Act 10 of 1965 and amended by section 5 of Act 41 of 1966, section 3 of Act 91 of 1972, section 7 of Act 101 of 1976 and section 4 of Act 94 of 1977.

(a) by the substitution for subparagraph *(a)* (ii) of subsection (2) of the following subparagraph:

"(ii) fifty per cent of the amount of the said net liabilities in respect of long-term insurance business carried on with pension funds and retirement annuity funds, but subject to any exemption under section 18*ter*."; and

(b) by the substitution for subparagraph *(b)* (ii) of the said subsection (2) of the following subparagraph:

"(ii) twenty per cent of the amount of the said net liabilities in respect of long-term insurance business carried on with pension funds and retirement annuity funds, but subject to any exemption under section 18*ter*.".

4. The following section is hereby inserted in the Insurance Act, 1943, after section 18*bis*: Insertion of section 18*ter* in Act 27 of 1943.

"Exemption from sections 17 (2) and 18 (2).

18*ter*. The Minister may, to the extent determined by him, exempt a registered insurer in respect of long-term insurance business carried on with a pension fund established or conducted by a religious institution, from the provisions of section 17 (2) or 18 (2), as the case may be.".

5. Section 38 of the Insurance Act, 1943, is hereby amended— Amendment of section 38 of Act 27 of 1943.

(a) by the substitution for subsection (1) of the following subsection:

"(1) If a domestic life policy effected after the commencement of this Act, but before the commencement of the Financial Institutions Amendment Act, 1978, contains a provision which purports to exclude or limit any obligation, under the policy, of the insurer or to increase any obligation of the owner of the policy if the person whose life is insured performs, in connection with any war in which the Republic is involved, any military **[or naval]** service under the Government of the Republic or under the Government of any other country which is associated with the Government of the Republic in any such war, that provision shall be null and void, but subject to the following provisions of this section.";

(b) by the substitution for subsection (3) of the following subsection:

"(3) A domestic life policy effected within the period referred to in subsection (1) may stipulate that the insurer shall not be liable under the policy in respect of the death of the person whose life is insured if he has died as a result of bodily injury or ill-health arising out of and in the course of any such service as is mentioned in subsection (1) which was rendered—

(a) outside the Republic; or

(b) anywhere on any aircraft in flight or attempted flight or in landing after a flight,

in connection with any war in which the Republic was involved, but such a stipulation—

(i) shall only be enforceable if any dependant of the said person has received or is entitled to receive any financial benefit from any Government by reason of the said person's death, or if the said person had no dependant at the time of his death, provided such a dependant would have received or would have been entitled to receive such a benefit if the said person had had a dependant, and

(ii) shall be null and void if inserted in the policy after the commencement of the Financial Institutions Amendment Act, 1978.";

(c) by the substitution for subsection (5) of the following subsection:

"(5) If a person whose life was insured under a domestic life policy effected within the period referred to in subsection (1), which contains such a stipulation as is mentioned in subsection (3) has died and the insurer concerned is not liable under the policy by virtue of that stipulation, the said insurer shall pay to the owner of the policy an amount equal to the aggregate of all premiums paid in respect of such person under the policy, after deduction from that aggregate of any money already paid in respect of such person under the policy by the insurer and of the amount of any indebtedness due to the insurer under that policy in respect of such person."; and

(d) by the addition of the following subsection:

"(6) If a domestic life policy effected within the period referred to in subsection (1) at any time insures a person against the risk of his death in the course of or as a result of any military service, other than military service as contemplated in subsection (1), which he performs under the Government of the Republic or under the Government of any country which is associated with the Government of the Republic in any

military action against a common enemy, the obligation assumed by the insurer in respect of such risk may not be limited or excluded and the obligation assumed by the owner of such policy in respect of such risk may not be increased.".

Insertion of section 38A in Act 27 of 1943.

6. The following section is hereby inserted in the Insurance Act, 1943, after section 38:

"Insurance of risks relating to military service.

38A. (1) If a person whose life is insured under a domestic life policy effected after the commencement of the Financial Institutions Amendment Act, 1978, dies in the course of or as a result of any military service which he performs under the Government of the Republic or under the Government of any country which is associated with the Government of the Republic in any military action against a common enemy, and—

(a) no insurance is provided under the policy in respect of the circumstances in which such person died; or

(b) such insurance is provided but for an amount which is less than the aggregate amount of premiums paid in respect of such person under the policy,

such insurance shall be deemed to be provided under the policy for an amount not less than such aggregate amount of premiums paid.

(2) If a domestic life policy effected after the commencement of the Financial Institutions Amendment Act, 1978, at any time insures a person against the risk of his death in the circumstances contemplated in subsection (1), the obligation assumed by the insurer in respect of such risk may not be limited, or be excluded otherwise than as permitted in subsection (4), and the obligation assumed by the owner of such policy in respect of such risk may not be increased.

(3) If under a policy referred to in subsection (2) an extra premium is specifically payable in respect of any risk referred to in that subsection, which risk would otherwise be excluded from the insurance, the policy shall stipulate the amount of such extra premium in type no smaller than that used elsewhere in the policy.

(4) If the owner of a policy referred to in subsection (3) requests the insurer in writing to cancel the insurance in respect of the risk concerned, the insurer shall, with effect from the date on which he is requested, cancel the insurance in respect of such risk and reduce the premium by the amount of the extra premium concerned: Provided that an insurer or a broker shall not induce such owner to cancel such insurance.

(5) The provisions of this section shall not apply with reference to that part of a domestic life policy referred to in subsection (1) of section 36, which provides for any benefit mentioned in, and limited by, that subsection.

(6) No insurer shall refuse to issue to any person a domestic life policy on the grounds that he is performing or is likely to perform military service.".

Amendment of section 2 of Act 7 of 1947, as substituted by section 3 of Act 86 of 1971.

7. Section 2 of the Stock Exchanges Control Act, 1947, is hereby amended by the substitution for subparagraph *(aa)* of paragraph *(c)* of subsection (1) of the following subparagraph:

"*(aa)* a stock-broker **[and such buying and selling is effected as is contemplated in subparagraph (i), (ii), (iii), (iv) or (v) of paragraph *(d)* of section 8 (1)]**; or".

Amendment of section 8 of Act 7 of 1947, as substituted by section 10 of Act 86 of 1971.

8. Section 8 of the Stock Exchanges Control Act, 1947, is hereby amended by the substitution for that part of paragraph *(d)* of subsection (1) which precedes subparagraph (i) thereof, of the following:

"*(d)* that a member who is a stock-broker does not directly, on his own account, or on behalf of a company in which he has an interest, or for the purposes of any arrangement to which he is a party, buy or sell listed securities, other than securities referred to in section 2 (1) *(c)*, except—".

Amendment of section 18 of Act 7 of 1947, as substituted by section 24 of Act 86 of 1971.

9. Section 18 of the Stock Exchanges Control Act, 1947, is hereby amended by the substitution for subsection (4) of the following subsection:

"(4) The provisions of this section shall not apply—

(a) if the lender and the borrower concerned are stock-brokers in the Republic;

(b) with reference to a deposit made by a stock-broker or carrier against shares with a banking institution registered otherwise than provisionally in terms of the Banks Act, 1965 (Act No. 23 of 1965), or with a building society registered otherwise than provisionally in terms of the Building Societies Act, 1965, (Act No. 24 of 1965);

(c) with reference to a loan made to a licensed stock exchange by a member of that stock exchange;

(d) with reference to a loan made by a stock-broker or carrier against shares for purposes other than the buying and selling of securities: Provided that such a loan shall not rank as an asset for the purposes of sections 8C and 16 (2) *(b)* (i).".

Amendment of section 1 of Act 24 of 1956, as amended by section 21 of Act 101 of 1976 and section 9 of Act 94 of 1977.

10. Section 1 of the Pension Funds Act, 1956, is hereby amended by the substitution in subsection (1) for the definition of "dependant" of the following definition:

"'dependant', in relation to a member—

(a) means a person considered by the person managing the business of the fund concerned as being in fact dependent on the member for maintenance, regardless of whether or not the member is legally liable for the maintenance of such person;

(b) and includes a person who is in fact not dependent on the member for maintenance, if such person is—

(i) the spouse of the member, including a party to a customary union according to Bantu law and custom or to a union recognized as a marriage under the tenets of any Indian religion; or

(ii) a child or descendant of a child of the member or the spouse of such child or descendant,

who in accordance with the rules of the fund may become entitled to a benefit;".

Amendment of section 19 of Act 24 of 1956, as amended by section 13 of Act 80 of 1959, section 9 of Act 58 of 1966, section 1 of Act 80 of 1969, section 2 of Act 23 of 1970, section 7 of Act 91 of 1972,

11. Section 19 of the Pension Funds Act, 1956, is hereby amended—

(a) by the substitution for subsection (5) of the following subsection:

"(5) *(a)* A registered fund may, if its rules so permit, grant a loan to a member by way of investment of its funds to enable the member—

(i) to redeem a loan granted to the member by a person other than the fund, against security of immovable property which belongs to the

member or his or her spouse and on which a dwelling has been or will be erected which is occupied or, as the case may be, will be occupied by the member or a dependant of the member;

(ii) to purchase a dwelling, or to purchase land and erect a dwelling on it, for occupation by the member or a dependant of the member; or

(iii) to make additions or alterations to a dwelling which belongs to the member or his or her spouse and which is occupied or will be occupied by the member or a dependant of the member.

(b) A loan contemplated in paragraph *(a)* shall not be granted—

(i) unless secured by—

(aa) a first mortgage on the immovable property in respect of which it is granted; or

(bb) a pledge of the benefits to which the member is entitled in terms of the rules of the fund; or

(cc) both such mortgage and such pledge;

(ii) in respect of immovable property if the member concerned is liable to the fund in respect of a loan granted to him in respect of other immovable property.

(c) A loan contemplated in paragraph *(a)* shall not exceed where it is secured in accordance with—

(i) paragraph *(b)* (i) *(aa)*, seventy-five per cent of the market value of the hypothecated property concerned;

(ii) paragraph *(b)* (i) *(bb)*, the amount of the benefit which the member would receive if he were to terminate his membership of the fund voluntarily or the market value of the immovable property concerned, whichever is the lesser amount; or

(iii) paragraph *(b)* (i) *(cc)*, the amount equal to the aggregate of seventy-five per cent of the market value of the hypothecated property concerned and the amount of the benefit which the member would receive if he were to terminate his membership of the fund voluntarily or the market value of the property, whichever is the lesser amount."; and

section 23 of Act 101 of 1976 and section 11 of Act 94 of 1977.

(b) by the insertion of the following subsection after subsection (5B):

"(5C) A registered fund may, if its rules so permit, contribute to any other pension fund registered under this Act, or any fund of any kind whatsoever, which is conducted for the benefit of the employees of the said registered fund.".

12. The following section is hereby substituted for section 37B of the Pension Funds Act, 1956:

Substitution of section 37B of Act 24 of 1956, as inserted by section 24 of Act 101 of 1976 and substituted by section 13 of Act 94 of 1977.

"Disposition of pension benefits upon insolvency.

37B. If the estate of any person entitled to a benefit payable in terms of the rules of a registered fund (including an annuity purchased by the said fund from an insurer for that person) is sequestrated or surrendered, such benefit or any part thereof which became payable after the commencement of the Financial Institutions Amendment Act, 1976 (Act No. 101 of 1976), shall, subject to a pledge in accordance with section 19 (5) *(b)* (i) and subject to the provisions of sections 37A (3) and 37D, not be deemed to form part of the assets in the insolvent estate of that person and

may not in any way be attached or appropriated by the trustee in his insolvent estate or by his creditors, notwithstanding anything to the contrary in any law relating to insolvency.".

Substitution of section 37C of Act 24 of 1956, as inserted by section 24 of Act 101 of 1976.

13. The following section is hereby substituted for section 37C of the Pension Funds Act, 1956:

"Disposition of pension benefits upon death of member.

37C. Notwithstanding anything to the contrary contained in any law or in the rules of a registered fund, any benefit payable by such a fund in respect of a deceased member, shall, subject to a pledge in accordance with section 19 (5) *(b)* (i) and subject to the provisions of sections 37A (3) and 37D, not form part of the assets in the estate of such a member, but shall be **[paid to any one or more of the dependants of the member, if there is such a dependant or are such dependants, or to a guardian or trustee for the benefit of such dependant or dependants: Provided that if such dependant or dependants cannot be traced by the fund concerned within a period of six months after the death of the member, or if no claim is received by that fund from such dependant or dependants within the said period, the benefit may be paid over to the estate of the member.]** dealt with in the following manner:

(a) If there are dependants of the member, the benefit shall be paid to such dependants.

(b) If there are no dependants of the member or if no dependant of a member can be traced by the fund within twelve months of the death of the member and the member has designated a nominee, who is not a dependant of the member, to receive the benefit, the benefit shall be paid to such nominee: Provided that where the aggregate amount of the debts in the estate of the member exceeds the aggregate amount of the assets in his estate, so much of the benefit as is equal to the difference between such aggregate amount of debts and such aggregate amount of assets shall be paid into the estate and the balance of such benefit shall be paid to the nominee.

(c) If there are no dependants of the member or if no dependants of the member can be traced by the fund within twelve months of the death of the member or if the member has not designated a nominee, the benefit shall be paid into the estate of the member.".

Amendment of section 37D of Act 24 of 1956, as inserted by section 14 of Act 94 of 1977.

14. Section 37D of the Pension Funds Act, 1956, is hereby amended by the substitution of the following paragraph for paragraph *(c)*:

"*(c)* deduct any amount which the fund has paid or will pay by arrangement with, and on behalf of, a member or beneficiary in respect of—

(i) such member's or beneficiary's subscription to a medical scheme, registered otherwise than provisionally in terms of the Medical Schemes Act, 1967 (Act No. 72 of 1967);

(ii) any insurance premium payable by such member or beneficiary to an insurer registered in terms of the Insurance Act, 1943 (Act No. 27 of 1943);

(iii) any purpose approved by the registrar, on the conditions determined by him, upon a request in writing from the fund,

from the benefit to which the member or beneficiary is entitled in terms of the rules of the fund, and pay such amount, if due, to such medical scheme, **[or such]** insurer or person concerned, as the case may be.".

Amendment of section 3 of Act 68 of 1962, as amended by section 16 of Act 94 of 1977.

15. Section 3 of the Inspection of Financial Institutions Act, 1962, is hereby amended by the insertion of the following paragraph after paragraph *(d*A*)*:

"*(d*B) if the registrar considers it desirable to ascertain whether any person has or had any interest, direct or indirect, in or in the business of the financial institution; or".

Amendment of section 4 of Act 68 of 1962.

16. Section 4 of the Inspection of Financial Institutions Act, 1962, is hereby amended by the substitution for subsection (4) of the following subsection:

"(4) An inspector may, with the written authority of the registrar, also inspect the securities, books, records, accounts or documents of any person, partnership or company—

(a) **[in which or in the business of which]** if the registrar has reason to believe that the financial institution the affairs of which are being inspected, has or had a direct or indirect interest in or in the business of such person, partnership or company; or

(b) if the registrar has reason to believe that such person, partnership or company has or had a direct or indirect interest in or in the business of such financial institution; or

(c) if the registrar considers it necessary for a proper inspection of the affairs of such financial institution that such securities, books, records, accounts or documents be inspected,

and the provisions of subsections (1), (2) and (3) shall apply *mutatis mutandis* in respect of such inspection.".

Insertion of section 9A in Act 48 of 1964.

17. The following section is hereby inserted in the Participation Bonds Act, 1964, after section 9:

"Collateral security in respect of participation bonds.

9A. (1) Any collateral security, including a surety mortgage bond, collateral mortgage bond, notarial bond, suretyship, guarantee, cession, pledge and a lien, accepted by a manager in addition to a participation bond in order to secure the debt referred to in section 6 (1) or to secure the due performance by a mortgagor of his obligations under a participation bond or to secure the due performance by a surety of his obligations under a contract of suretyship relating to such debt or to the obligations of the mortgagor, shall be registered in the name of the nominee company as nominee for or representative of the participants therein, and any contract relating to such security shall be drawn and executed in favour of the nominee company as nominee for or representative of the participants from time to time in the participation bond to which the security relates.

(2) Notwithstanding anything to the contrary in any law contained, a contract of suretyship relating to a debt secured by any participation bond or securing the due performance by the mortgagor of his obligations under such a bond or securing the due performance by a surety of his obligations under a contract relating to such debt or to the obligations of the mortgagor and drawn and executed in favour of a nominee company,

shall be as valid, and enforceable by the nominee company in its own name against the surety on behalf of participants in the bond concerned, as if the contract had been drawn and executed in favour of every participant from time to time in the bond.

(3) The provisions of sections 2 (2), 6, 7, 8, 8A (1) and 9 (3) shall apply *mutatis mutandis*, in so far as such provisions can be applied, with reference to and in respect of any collateral security accepted by a nominee company for any of the purposes set forth in subsection (1), and in the application thereof a reference therein to a participation bond or bond shall be construed as a reference to a participation bond and collateral security, and a reference to a mortgagor as a reference to a mortgagor and the grantor of collateral security.

(4) The provisions of this section shall apply *mutatis mutandis* with reference to any collateral security accepted before the date of commencement of the Financial Institutions Amendment Act, 1978, by the nominee company or the manager for any of the purposes referred to in subsection (1) and in respect of which the contract or arrangement or other document containing the terms and conditions thereof is of full force and effect at the date of such commencement.".

Amendment of section 1 of Act 23 of 1965, as amended by section 12 of Act 91 of 1972 and section 37 of Act 101 of 1976.

18. Section 1 (1) of the Banks Act, 1965, is hereby amended—

(a) by the substitution for paragraph *(n)* of the definition of "liquid assets" of the following paragraph:

"*(n)* promissory notes issued by a foreign borrower in favour of a banking institution registered in terms of this Act or the Industrial Development Corporation of South Africa, Limited, constituted under the Industrial Development Act, 1940 (Act No. 22 of 1940), or bills drawn on a foreign borrower and accepted by him, in terms of any loan agreement concluded between the foreign borrower and such a banking institution for the financing of the export of capital goods or the financing of services and re-insured in terms of the Export Credit Re-insurance Act, 1957 (Act No. 78 of 1957), if such promissory notes or bills comply with any further requirements under the regulations;";

(b) by the substitution for the definition of "savings account" of the following definition:

"'savings account' means an account which a depositor maintains with a banking institution and in which he may not keep a larger credit balance than is determined by the rules or articles of the institution, but subject to the provisions of section 21 (4), and from which he may not without the consent of the institution make a withdrawal at shorter notice, in relation to the amount to be withdrawn, than is determined by the rules or articles of the institution, and from which any amount withdrawn may only be paid to the depositor himself or transferred to another account which he, his spouse or a dependant of his maintains with the institution;";

(c) by the substitution for the definition of "short-term liability" of the following definition:

"'short-term liability', in relation to any date, means a liability (including a loan from or a deposit by another banking institution) which is payable on or

before the thirtieth day as from that date, or which on that date is subject to notice which makes it payable on or before the thirtieth day as from that date, and includes transmission deposits;"; and

(d) by the insertion after the definition of "territory" of the following definitions:

"'transmission account' means an account, other than an account from which amounts are withdrawable by cheque, which a depositor maintains with a banking institution and from which the depositor may withdraw amounts on demand and the banking institution, according to instructions by the depositor, may make payments to other parties and transfer amounts to any other account;

'transmission deposit' means a credit balance in a transmission account;".

19. Section 13 of the Banks Act, 1965, is hereby amended by the addition of the following subsection: Amendment of section 13 of Act 23 of 1965.

"(6) A banking institution shall, at such times as the Minister may prescribe by regulation, furnish to the Registrar such further information regarding its assets and liabilities as the Minister may likewise prescribe.".

20. (1) Section 21 of the Banks Act, 1965, is hereby amended— Amendment of section 21 of Act 23 of 1965, as amended by section 5 of Act 23 of 1970, section 16 of Act 91 of 1972 and section 4 of Act 67 of 1973.

(a) by the substitution for subsection (4) of the following subsection:

"(4) *(a)* A banking institution shall not allow any one person to maintain with it a credit balance on savings account in excess of **[fifteen]** twenty-five thousand rand: Provided that nothing in this subsection contained shall preclude an institution from crediting interest to a savings account.

(b) Where on the **[nineteenth day of August, 1971,]** first day of January, 1978, the credit balance on a savings account lawfully exceeded **[fifteen thousand rand]** the limit prescribed in paragraph *(a)*, such balance shall not by reason of the provisions of that paragraph **[*(a)*]** be required to be reduced to the said **[amount]** limit: Provided that—

(i) no further amount other than interest shall be credited to such account so long as it shows a credit balance exceeding the said **[amount]** limit; and

(ii) if the balance in such account is at any time reduced to **[fifteen thousand rand]** the said limit or less, **[the]** that limit **[prescribed by paragraph *(a)*]** shall also apply to it.";

(b) by the substitution in subsection (7) for the words "nineteenth day of August, 1971" of the words "first day of January, 1978"; and

(c) by the addition of the following subsection:

"(8) A banking institution shall not hold out to members of the public that it will at all times consent to the repayment of savings deposits at shorter notice, in relation to the amount to be withdrawn, than is determined by the rules or articles of that institution.".

(2) The amendments effected by paragraphs *(a)* and *(b)* of subsection (1) shall be deemed to have come into operation on 1 January 1978.

Amendment of section 22 of Act 23 of 1965, as amended by section 13 of Act 58 of 1966.

21. (1) Section 22 of the Banks Act, 1965, is hereby amended by the substitution for paragraph *(a)* of the proviso to subsection (1) of the following paragraph:

"*(a)* a discount house may discount, buy or invest in securities of a nature similar to the aforesaid securities or to the securities so approved, but its holding of securities of the said nature, together with its holding of the aforesaid securities which do not rank as liquid assets, shall at no time constitute more than **[**ten**]** twelve and one-half per cent of its total assets; and".

(2) The amendment effected by subsection (1) shall be deemed to have come into operation on 1 January 1978.

Amendment of section 1 of Act 24 of 1965, as amended by section 1 of Act 64 of 1968, section 5 of Act 67 of 1973 and section 54 of Act 101 of 1976.

22. Section 1 of the Building Societies Act, 1965, is hereby amended—

(a) by the substitution for the definition of "savings account" of the following definition:

"'savings account' means an account which a depositor maintains with a building society and in which he may not keep a larger credit balance than is determined by the rules of the society, but subject to the provisions of section 26 (4), and from which he may not without the consent of the society, make a withdrawal at shorter notice, in relation to the amount to be withdrawn, than is determined by the rules of the society, and from which any amount withdrawn may only be paid to the depositor or transferred to another account which he, his spouse or a dependant of his maintains with the society;";

(b) by the substitution for the definition of "short-term liability" of the following definition:

"'short-term liability', in relation to any date, means a liability which is payable within thirty days as from that date or which on that date is subject to less than thirty days' notice before becoming payable, and includes transmission deposits;";

(c) by the insertion after the definition of "Territory" of the following definitions:

"'transmission account' means an account which a depositor maintains with a building society and from which the depositor may withdraw amounts on demand and the building society, according to instructions by the depositor, may make payments to other parties and transfer amounts to any other account;

'transmission deposit' means a credit balance in a transmission account;"; and

(d) by the addition in the definition of "urban immovable property" of the following paragraph after paragraph *(f)*:

"*(g)* any right in respect of any erf or site situated in an area defined and set apart in terms of the Bantu (Urban Areas) Consolidation Act, 1945 (Act No. 25 of 1945), for occupation by Black persons, if such right has been approved by the Minister by notice in the *Gazette*;".

Amendment of section 7 of Act 24 of 1965.

23. (1) Section 7 of the Building Societies Act, 1965, is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) A building society shall not be registered **[**as a building society**]** under a name **[**under which any other society is registered or was at any time registered as a building society under this Act or under the Building Societies Act, 1934 (Act No. 62 of 1934), or under a name so nearly resembling such name that the one society is likely to be mistaken for the other.**]**—

(a) under which any other building society, including a building society deemed under section 5 (10) to be registered, is registered;

(b) under which a building society, which has been taken over by another registered building society, was at any time registered under this Act or under the Building Societies Act, 1934 (Act No. 62 of 1934), unless the registrar, after consultation with the society by which such building society was taken over, is satisfied that no reasonable ground of objection against registration under that name exists; or

(c) which so closely resembles the name of a registered building society or a building society taken over as contemplated in paragraph *(b)*, that the one is likely to be mistaken for the other.".

(2) The amendment effected by subsection (1) shall be deemed to have come into operation on 1 January 1978.

Amendment of section 22 of Act 24 of 1965, as amended by section 5 of Act 64 of 1968 and section 1 of Act 91 of 1969.

24. Section 22 of the Building Societies Act, 1965, is hereby amended—

(a) by the substitution for subparagraph *(d)* (i) of subsection (1) of the following subparagraph:

"(i) subject to the provisions of section 26, to receive savings deposits, transmission deposits or fixed deposits, **[on which interest is payable]** and to pay interest thereon;"; and

(b) by the addition to paragraph *(d)* of subsection (1) of the following subparagraph:

"(v) notwithstanding anything contained in the rules of the society, to issue debentures in accordance with the provisions of section 55A;".

Amendment of section 26 of Act 24 of 1965, as amended by section 6 of Act 64 of 1968, section 7 of Act 23 of 1970, section 18 of Act 91 of 1972 and section 6 of Act 67 of 1973.

25. (1) Section 26 of the Building Societies Act, 1965, is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:

"(1) A society shall not accept deposits of money subject to withdrawal by cheque, draft or order payable on demand but may accept deposits in an account from which amounts may be paid out or transferred at the request of the depositor.";

(b) by the substitution for paragraph *(b)* of subsection (4) of the following paragraph:

"*(b)* **[fifteen]** twenty-five thousand rand if the said assets at the close of such financial year exceeded five hundred thousand rand:";

(c) by the substitution in subsection (5) for the words "nineteenth day of August, 1971," of the words "first day of January, 1978,";

(d) by the substitution in subsection (6) for the words "nineteenth day of August, 1971," of the words "first day of January, 1978,";

(e) by the substitution for subsection (7) of the following subsection:

"(7) Save with the written consent of the registrar, which may be given either generally or specifically, and subject to such conditions as he may prescribe, no society with total assets as set out in any item of the first column in the table hereunder, shall allow any one person to hold fixed deposits which in the aggregate, exclusive of interest, exceed twenty-four times the amount set out against that item in the second column of the table or which fall due for repayment in any one month in an amount which exceeds, exclusive of interest, the amount mentioned in the second column of the table:

Total assets as at the close of the last preceding financial year	Amount
Under R500 000	R5 000
R500 000 and under R2 000 000	R25 000
R2 000 000 and under R20 000 000	R50 000
R20 000 000 and under R100 000 000	R125 000
R100 000 000 and over	R250 000"

and

(f) by the addition of the following subsection:

"(12) A society shall not hold out to members of the public that it will at all times consent to the repayment of savings deposits at shorter notice, in relation to the amount to be withdrawn, than is determined by the rules of that society.".

(2) The amendments effected by paragraphs *(b)*, *(c)* and *(d)* of subsection (1) shall be deemed to have come into operation on 1 January 1978.

Amendment of section 29 of Act 24 of 1965, as amended by section 8 of Act 64 of 1968 and section 2 of Act 91 of 1969.

26. Section 29 of the Building Societies Act, 1965, is hereby amended—

(a) by the substitution in the Afrikaans text of paragraph *(a)* for the word "onroerende" of the word "vaste"; and

(b) by the insertion after paragraph *(eB)* of the following paragraph:

"*(eC)* in shares of, or stock or debentures issued by, a building society or any other institution, which in terms of section 55A takes transfer of portion of the assets and liabilities of the society making the investment;".

Amendment of section 31 of Act 24 of 1965, as amended by section 9 of Act 64 of 1968.

27. Section 31 of the Building Societies Act, 1965, is hereby amended—

(a) by the substitution for subsection (1) of the following subsection:

"(1) [*(a)*] A permanent society shall maintain in the Republic in respect of its liabilities to the public (excluding shares for an indefinite period issued by it), liquid assets amounting to not less than the aggregate of—

(a) thirty per cent of its liabilities in respect of transmission deposits;

[(i)] *(b)* fifteen per cent of its short-term liabilities, other than transmission deposits;

[(ii)] *(c)* ten per cent of its medium-term liabilities and

[(iii)] *(d)* five per cent of its long-term liabilities,

as shown in the last preceding monthly return furnished by it to the registrar in terms of section 34 (1): Provided that in respect of its liabilities in the form of fixed deposits and subscription shares a society may, instead of an amount calculated in accordance with the foregoing provisions of this paragraph, maintain liquid assets equal to seven and one-half per cent of the aggregate amount of all such deposits and shares.

[*(b)* The provisions of paragraph *(a)* shall in respect of a society which was in existence at the commencement of the Building Societies Amendment Act, 1964, come into operation one year after such a commencement: Provided that—

(i) a society which for reasons acceptable to the registrar does not at the end of the said period of one year hold the full amount of

liquid assets prescribed by paragraph *(a)*, may apply to the registrar for an extension of that period and the registrar may extend it in respect of such society by not more than twelve months; and

(ii) the society shall during the said period of one year and any extension thereof at all times comply with the requirements relating to liquid assets which were applicable to it prior to the said commencement.]": and

(b) by the insertion after subsection (1) of the following subsection:

"(1A) *(a)* Whenever the Reserve Bank deems it desirable in the national economic interest that supplementary liquid assets be maintained by building societies, it may with the consent of the Treasury from time to time determine—

(i) that the percentage mentioned in subsection (1) *(a)* shall be increased to not more than sixty; or

(ii) that every permanent society shall, in addition to the liquid assets required under subsection (1), maintain supplementary liquid assets in the Republic at least equal to a percentage prescribed by the Reserve Bank, but not exceeding seventy per cent of the amount by which the society's liabilities mentioned in subsection (1) *(a)*, as shown in the last preceding monthly return furnished by it to the registrar in terms of section 34 (1), exceed the amount of such liabilities as at a date determined by the Reserve Bank and stated by the registrar in a notice in the *Gazette*; or

(iii) that every permanent society shall, in addition to the supplementary liquid assets required to be maintained in terms of subparagraph (i), maintain supplementary liquid assets in terms of subparagraph (ii): Provided that for the purposes of this subparagraph the maximum percentage which the Reserve Bank may determine in terms of subparagraph (ii) shall be reduced by the percentage by which the percentage mentioned in subsection (1) *(a)* has been increased in terms of subparagraph (i).

(b) Whenever the Reserve Bank has made a determination in terms of paragraph *(a)*, it shall inform the registrar thereof in writing, and the registrar shall as soon as practicable give written notice of the determination to every permanent society and cause the determination to be published in the *Gazette*.

(c) Any such determination shall take effect on a date mentioned in the said notice.

(d) With the consent of the Treasury, the Reserve Bank may at any time vary an existing determination by increasing or decreasing any percentage determined by it in terms of paragraph *(a)*.

(e) The provisions of paragraphs *(b)* and *(c)* shall apply *mutatis mutandis* with reference to a variation referred to in paragraph *(d)*.

(f) Notwithstanding anything contained in paragraph *(a)*, no society shall be required to augment its liquid assets during any month of the year by an amount in excess of ten per cent of its liabilities mentioned in subsection (1) *(a)*, as at the close of the last working day of the preceding month.".

Amendment of section 38 of Act 24 of 1965, as amended by section 14 of Act 58 of 1966, section 11 of Act 64 of 1968 and section 8 of Act 67 of 1973.

28. Section 38 (1) of the Building Societies Act, 1965, is hereby amended by the insertion of the following paragraph after paragraph *(a)*:

"*(a*A) within a period of not more than twenty-five years where such capital amount exceeds twenty thousand rand but not thirty thousand rand and the mortgaged property is property on which a dwelling house has been or is to be erected; or".

Amendment of section 40 of Act 24 of 1965, as amended by section 13 of Act 64 of 1968, section 10 of Act 23 of 1970 and section 9 of Act 67 of 1973.

29. Section 40 of the Building Societies Act, 1965, is hereby amended by the substitution for subparagraph (i) of subsection (6) *(a)* of the following subparagraph:

"(i) a dwelling house has been or is being erected on such property or the property to which such lease or licence refers, and the value of such property, lease or licence does not exceed [R20 000] R28 000;".

Amendment of section 46 of Act 24 of 1965, as amended by section 13 of Act 67 of 1973 and section 23 of Act 94 of 1977.

30. Section 46 of the Building Societies Act, 1965, is hereby amended by the addition to subsection (1) of the following further proviso:

"Provided further that in the case of a guarantee by a company of the business of which the provisions of dwelling houses forms a substantial part, and where the value of the property in question does not exceed twenty-eight thousand rand, the additional security may, to the extent and on the conditions approved by the registrar, be in the form of a guarantee policy of a registered insurer or a guarantee by a financial institution approved by the registrar in general or in a specific case.".

Insertion of section 55A in Act 24 of 1965.

31. The following section is hereby inserted in the Building Societies Act, 1965, after section 55:

"Transfer of part of a society's business.

55A. (1) A permanent society may, with the written consent of the registrar and on the conditions determined by him, transfer that part of its business which is conducted in a particular area and which constitutes a minor portion of its total business, to another permanent society or to any other institution approved for the purpose by the Minister.

(2) When a society proposes to transfer part of its business in terms of subsection (1), it shall furnish to the registrar a return setting forth to the satisfaction of the registrar all its assets and liabilities and, separately, those assets and liabilities which it proposes to transfer, and also a copy of the agreement setting out the proposed terms and conditions of the transfer.

(3) The provisions of subsections (2), (3), (4), (5), (6), (10) and (11) of section 55 shall *mutatis mutandis* apply in relation to the assets and liabilities transferred in terms of subsection (1) of this section.

(4) For the purposes of the transfer of assets and liabilities in terms of this section a society which takes transfer of part of the assets and liabilities of another society may issue debentures on the conditions approved by the registrar, and the last-mentioned society may invest in such debentures and in shares of the first-mentioned society.

(5) The registrar shall not give his consent to the transfer of part of the assets and liabilities of a society unless—

(a) he is satisfied, having regard to all the circumstances, including any statutory requirements in regard to liquid assets, prescribed investments, maximum investment in fixed property and minimum capital and reserves, that a reasonable

and fair division of the assets, reserves and other liabilities of the society concerned has been made with regard to the transfer of the relevant part of its business; and

(b) the agreement referred to in subsection (2) provides that the society transferring part of its assets and liabilities shall from time to time invest in stock, debentures or shares issued by the transferee society or institution, as the case may be, in order that such society or institution may repay deposits which the first-mentioned society transferred to it and which are withdrawn on the first maturity date subsequent to the date of the said transfer, and may redeem, during such period as the registrar may approve and on the conditions set out in the said agreement, any shares in it so transferred.

(6) Upon the registration by the registrar of the notice of the transfer of part of the assets and liabilities of any society to another society or other institution, the assets and liabilities transferred shall become assets and liabilities of the transferee society or institution, as the case may be.".

32. This Act shall be called the Financial Institutions Amend- Short title.
ment Act, 1978.